

**RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
PART V. RULES GOVERNING PRACTICE IN THE CHANCERY DIVISION,
FAMILY PART
CHAPTER II. SPECIFIC CIVIL ACTIONS
RULE 5:6. SUMMARY ACTION FOR SUPPORT**

Rule 5:6-1. When and by whom filed

Except for UIFSA proceedings pursuant to N.J.S.A. 2A:4-30.124 to 2A:4-30.201, a summary action for support may be brought by either the party entitled thereto, an assistance agency or a party seeking to establish that party's support obligation provided no other family action is pending in which the issue of support has been or could be raised.

Note: Source-new. Adopted December 20, 1983, to be effective December 31, 1983; amended November 1, 1985 to be effective January 2, 1986; amended May 25, 1999 to be effective July 1, 1999; amended July 27, 2015 to be effective September 1, 2015; amended July 28, 2017 to be effective September 1, 2017.

Rule 5:6-2. Matters brought by assistance agencies

In a proceeding for support brought by an assistance agency, any support that may be directed to be paid shall comply with R. 5:6A. If sufficient financial information is not available for either party, the court shall, insofar as practicable, make the support award in consideration of the amount of assistance received by the obligee.

Note: Source-R. (1969) 5:5-3(b). Adopted December 20, 1983, to be effective December 31, 1983; amended July 14, 1992 to be effective September 1, 1992.

Rule 5:6-3. Hearing

The court shall hear and determine the matter in a summary manner on the return day fixed in the process unless it is adjourned by or with the consent of the court. If the plaintiff does not attend the hearing, the court may dismiss the complaint, adjourn the matter to a future date and renotify the parties or take other appropriate action. On its own or a party's motion on good cause shown the court may order that the matter proceed in a plenary manner as it shall direct.

Note: Source-R. (1969) 5:3-2 (third sentence), 5:5-1(a), (c). Adopted December 20, 1983, to be effective December 31, 1983.

Rule 5:6-4. Interstate support

Matters originating under N.J.S.A. 2A:4.30.124 to 2A:4-30.201 inclusive (Uniform Interstate Family Support Act), shall be scheduled in the same manner as other Family cases and shall be heard expeditiously.

Note: Source-R. (1969) 5:5-5. Adopted December 20, 1983, to be effective December 31, 1983; caption and text amended May 25, 1999 to be effective July 1, 1999; amended July 28, 2017 to be effective September 1, 2017.

Rule 5:6-5. Enforcement of Orders

Support orders may be enforced and proceeded upon in accordance with R. 1:10-3 and the applicable provisions of R. 5:3-7, R. 5:7-5, and R. 5:7-6.

Note: Source-R. (1969) 5:6-4. Adopted December 20, 1983, to be effective December 31, 1983; amended June 15, 2007 to be effective September 1, 2007.

Rule 5:6-6. Probation-Initiated Status Review of Support Orders.

The Probation Division may present to the court for status review any appropriate case being enforced by Probation, subject to appropriate procedural due process requirements. The court shall consider such cases and may modify, suspend or terminate a support order, close a Probation-supervised case, or take such action as the court may deem appropriate and just. Status review hearings shall not substitute for motions or applications for post-dispositional relief initiated by parties to the case and may only be used by Probation as a vehicle to manage cases being enforced by Probation. The forms and procedures to implement the provisions of this Rule shall be prescribed by the Administrative Director of the Courts.

Note: Adopted October 5, 1993, to be effective October 13, 1993; caption and text amended July 21, 2011 to be effective September 1, 2011.

Rule 5:6-7. Separate Maintenance

An action for separate maintenance pursuant to N.J.S.A. 2A:34-24 shall be brought as a summary action unless designated as non-summary in nature by the Family Part Presiding Judge. When the response to the original Complaint for Separate Maintenance contains a counterclaim for divorce, dissolution of civil union or termination of domestic partnership, the action shall immediately be transferred to the dissolution (FM) docket without the need for a formal motion.

Note: Adopted July 28, 2004 to be effective September 1, 2004; amended July 21, 2011 to be effective September 1, 2011.

Rule 5:6-8. Affidavit or Certification of Non-Military Service

In every summary action and proceeding for support, no order shall be entered by default unless an affidavit or certification of non-military service is provided to the court, as provided in R. 1:5-7. The forms and procedures to implement the provisions of this rule shall be prescribed by the Administrative Director of the Courts.

Note: Adopted June 15, 2007 to be effective September 1, 2007.

Rule 5:6-9. Termination of Child Support Obligations

(a) Duration of Support. In accordance with N.J.S.A. 2A:17-56.67 et seq., unless otherwise provided in a court order, judgment, or preexisting agreement, the obligation to pay current child support, including health care coverage, shall terminate by operation of law when the child being supported:

- (1) dies;
- (2) marries;
- (3) enters the military service; or
- (4) reaches 19 years of age, except as otherwise provided within this rule.

In no case shall a child support obligation extend beyond the date the child reaches the age of 23.

(b) Termination of Obligation in Cases Administered by the Probation Division.

(1) Notices of Proposed Termination. Where no other emancipation date or termination has been ordered by the court, the Probation Division shall send the obligor and obligee notice of proposed termination of child support prior to the child reaching 19 years of age in accordance with N.J.S.A. 2A:17-56.67 et seq. Notices shall contain the proposed termination date and information for the obligee to submit a written request for continuation of support beyond the date the child reaches 19 years of age.

(2) Written Request for Continuation. In response to the notice prescribed in section (1), the obligee may submit to the court a written request for continuation, on a form and within timeframes promulgated by the Administrative Office of the Courts, with supporting documentation and a future termination date, seeking the continuation of support beyond the child's nineteenth birthday if the child being supported:

(A) is still enrolled in high school or other secondary educational program;

(B) is enrolled full-time in a post-secondary educational program; or

(C) has a physical or mental disability as determined by a federal or state agency that existed prior to the child reaching the age of 19 and requires continued support.

(3) Review of Written Request for Continuation. The Probation Division shall review the obligee's written request and documentation and shall make recommendation to the court as to whether the support obligation will continue beyond the child's nineteenth birthday. If sufficient proof has been provided, the court shall issue an order to both parties establishing the future termination date. If sufficient proof has not been provided, the court shall issue an order to both parties terminating the current support obligation as of the date of the child's nineteenth birthday. No additional notice need be provided to the parties.

(4) No Response to Notice of Proposed Termination. If the Probation Division receives no response to the notices of proposed termination of child support, the court shall issue an order to both parties establishing the termination of obligation as of the child's nineteenth birthday. No additional notice need be provided to the parties.

(5) Motion or Application. If a party disagrees with the termination or continuation order entered, the party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting either termination or continuation of the child support obligation, as applicable.

(6) Arrears Remain Due and Enforceable. Any arrearages accrued prior to the date of termination shall remain due and enforceable by the Probation Division as appropriate until either they are paid in full or the court terminates the Probation Division's supervision of the support order. Upon termination of an obligation to pay current support, the amount to be paid to satisfy the arrearage shall be the sum of the obligation amount in effect immediately prior to the termination plus any arrears repayment amount if there are no other children remaining on the support order.

(7) Notice of Termination. Where an emancipation date or termination date has been ordered by the court, the Probation Division shall send the obligor and obligee

notice of termination of child support prior to the child reaching the court ordered emancipation date or future termination date in accordance with N.J.S.A. 2A:17-56.67 et seq. Such notice shall contain the date on which child support shall terminate and information regarding the adjustments that will be made to the obligation, as applicable.

(8) **Unallocated Orders.** Whenever there is an unallocated child support order for two or more children and the obligation to pay support for one or more of the children is terminated pursuant to N.J.S.A. 2A:17-56.67 et seq., the amount to be paid prior to the termination shall remain in effect for the other children. Either party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter to adjust the support amount.

(9) **Allocated Orders.** Whenever there is an allocated child support order for two or more children and the obligation to pay support for one or more of the children is terminated pursuant to N.J.S.A. 2A:17-56.67 et seq., the amount to be paid shall be adjusted to reflect the reduction of the terminated obligation(s) for the other children. Either party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter to adjust the support amount.

(c) Termination or Continuation of Child Support Obligations Not Administered by the Probation Division. Where an obligor has been ordered to pay child support directly to the obligee, the child support obligation shall terminate by operation of law in accordance with N.J.S.A. 2A:17-56.67 et seq., unless otherwise provided in a court order or judgment. Notwithstanding any other provision of law, a party may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting termination or continuation of a child support obligation at any time, for good cause. The Probation Division shall not be required to provide any noticing, monitoring or enforcement services in any case where the obligor has been ordered to pay child support directly to the obligee.

(d) Other Reasons for Termination of Child Support Obligations. A party to a child support order, at any time, may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting termination of a child support obligation based on good cause. Any arrearages accrued prior to the date of termination shall remain due and enforceable by the obligee or the Probation Division, as appropriate.

(e) Emancipation. Except as otherwise provided by these rules, and in accordance with N.J.S.A. 2A:34-23, N.J.S.A. 2A:17-56.67 et seq., and related case law, a party to a child support order at any time may file a motion in a dissolution matter or an application in a non-dissolution or domestic violence matter requesting emancipation of a child. Court-ordered emancipation shall terminate the obligation of an obligor to pay current child support, as of the effective date set forth in the order of emancipation. Any arrearages accrued prior to the date of emancipation shall remain due and enforceable by the obligee or the Probation Division, as appropriate.

(f) Support for Children in Out-of-Home Placement through the Division of Child Protection and Permanency. A child support obligation payable to the Division of Child Protection and Permanency (DCP&P) for children in an out-of-home placement shall not be terminated by operation of law upon the child turning 19 years of age. A child

support obligation payable to DCP&P shall terminate upon notification that the child is no longer in placement or upon the child turning 23 years of age, whichever occurs first.

(g) Financial Maintenance for a Child Beyond 23 Years of Age. Pursuant to N.J.S.A. 2A:34-23, N.J.S.A. 2A:17-56.67 et seq., and related case law:

(1) a child beyond 23 years of age may apply to the court for an order requiring the payment of financial maintenance or reimbursement from a parent;

(2) a parent, or a child over the age of 23, may apply to the court for an order converting a child support obligation to another form of financial maintenance in exceptional circumstances, including but not limited to the child's physical or mental disability that existed prior to the date that the child reached the age of 23;

(3) Any arrearages accrued prior to the date of termination or conversion shall remain due and enforceable by the obligee or Probation Division, as appropriate; and

(4) Court-ordered financial maintenance or reimbursement from a parent shall not be payable or enforceable as child support. The Probation Division shall not be required to provide any establishment, monitoring or enforcement of such maintenance or reimbursement order.

(h) Foreign Orders or Judgments. The provisions of N.J.S.A. 2A:17-56.67 et seq. shall not apply to child support provisions contained in orders or judgments entered by a foreign jurisdiction and registered in New Jersey for modification or enforcement pursuant to the Uniform Interstate Family Support Act, N.J.S.A. 2A:4-30.124 et seq.

Note: Adopted July 28, 2017 to be effective September 1, 2017.